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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,971	11/03/2000	Adrianus J. van den Nieuwelaar	37814/249300	5061

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EXAMINER

COPIER, FLORIS C

ART UNIT PAPER NUMBER

3643

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/705,971

Applicant(s)

VAN DEN NIEUWELAAR ET AL.

Examiner

Chad Copier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 9-13, 15, 16, 18, 21, 22 and 25-30 is/are rejected.
- 7) ☒ Claim(s) 6, 8, 14, 17, 19, 20 and 23 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

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pmP

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: _____

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because of the apparently inadvertent inclusion of the words "Fig 5" at the bottom of the Abstract. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1- are rejected under 35 U.S.C. 102(b) as being anticipated by Hobbel et al. (US 5453045).

As to claim 1, Hobbel discloses a device for processing slaughter animals or parts thereof, having a first station (near 18, Fig 1) and a second station (near 20, Fig 1), comprising: a conveyor (15) which extends between the first station and the second station and which comprises at least one slot (95) with a width and a course (Figs 1, 5), which slot is designed to carry and support the slaughtered animals or parts thereof (Fig 5) through support (17); supply means (16) for supplying the slaughtered animals or parts thereof at the first station on the conveyor; discharge means (19) for discharging the slaughtered animals or parts thereof from the conveyor at the second stations; and the at least one driving member (15) which passes through a path which is substantially parallel to the course of the at least one slot (Fig 1) and is designed to move the

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slaughtered animals or parts thereof which are situated in the at least one slot along the at least one slot from the first station towards the second stations (col 7 lines 16-42), wherein the at least one driving member spans at least half the width of the at least one slot.

As to claim 2, the driving member (15) of Hobbel can be stopped by turning the motor off which would make the device unable to further transport the animal parts.

As to claim 3, the driving member rotates about an axis that is perpendicular to the path covered by the driving member (Fig 1).

As to claim 4, the driving member includes an arm (96) which is designed to transmit the movement of the driving member to the slaughtered animals or parts (col 9 lines 22-54).

As to claim 5, friction between moving parts is a force applied to oppose the movement of any driven member.

As to claim 7, Hobbel discloses a piston cylinder device (138, 140) that exerts a friction force on the driving member, opposing the movement in the driven direction.

As to claim 9, the supply means (16) and discharge means (19) are designed to supply and discharge the animal parts to the slot (Fig 1).

As to claim 10, the supply means rotates through positions where the parts are or are not supplied to the slot (Fig 1).

As to claim 11, the discharge means is controlled on the basis of position of the slaughtered animals to be transferred (col 8 lines 2-20).

As to claim 12, the supply and discharge means comprise disks (15, 16) designed to add or remove the animal parts one by one to the slot (Fig 1).

As to claim 13, the supply disk has at least two holding slots (Fig 1).

As to claim 15, the slot extends in a horizontal plane (Fig 2).

As to claim 16, the slot has a curved course (Fig 1).

As to claim 18, an unloading device (17) is provided inside the slot (Fig 1).

As to claim 21, unloading control means are disclosed by Hobbel (Fig 7).

As to claim 24, a processing station is along the slot of Hobbel (Fig 1) that manipulates the animal parts.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hobbel et al. or, in the alternative, in view of Brakels et al. (US 4813101). Hobbel discloses a weighing device (11) in a different location than the applicant. This does not create a patentable distinction. It would have been obvious to one having ordinary skill in the art at the time the invention was made to simply move the weighing means from one location on the device to another. See *In re Japikse*, 181 F.2d 1019, 1023, 86 USPQ 70, 73 (CCPA 1950).

Brakels discloses a weighing and grading station on a poultry transfer device that transmit data to eject the poultry based on the data gained (col 3 lines 23-35). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include weighing and grading stations and ejection stations of Brakels with the device of Hobbel to enable the sorting of poultry at the transfer stage.

Claims 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hobbel et al. Hobbel discloses all of the features of the invention including two separate frictional devices moving at different speeds along the slot (col 3 lines 26-32; Fig 1). Hobbel discloses chains and not belts as the frictional devices. This does not create a patentable distinction because it is merely the substitution of one well-known conveyance means for another. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a conveyor belt instead of a conveyor chain to affect the movement of the animal parts as a matter of design choice.

Allowable Subject Matter

Claims 6, 8, 14, 17, 19, 20 and 23 are objected to as being dependent on a rejected claim but would be allowable if rewritten in independent form with all preceding claim elements.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hazenbroek (US 5344360), Schmidt et al. (US 2002/0058470 A1), Simonds (US 4178659), Meyn (US 4574428), Tieleman (EP 0357843 A1), van der Nieuwelaar (US

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4597133), Chapman (EP 0235106 A1), Stone et al. (US 6033299) and Bowen (EP 0225306 A2) disclose similar devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chad Copier whose telephone number is 703-306-0939. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-306-4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

fcc
June 12, 2002



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